

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

SCOTT LOUIS PANETTI

Petitioner,

V.

BOBBY LUMPKIN,
Director, Texas Department of
Criminal Justice, Correctional
Institutions Division

Respondent.

[illegible]

Case No.
1:04-CV-00042-RP

Capital Case

AMENDED MOTION FOR 8-DAY EXTENSION OF TIME–UNOPPOSED¹

Undersigned counsel respectfully requests an extension of eight days to the present deadline for Petitioner and Respondent to file their post-hearing briefs in the above captioned case. If the request is granted, the briefs of both parties will be due February 17, 2023. Neither party has previously asked for an extension of time, and the present request is not sought for any improper purpose, including unnecessary delay. Respondent does not oppose the motion.

In support of the motion, Petitioner states the following:

Following a three-day evidentiary hearing in late October, 2022, this Court requested simultaneous post-hearing briefing from both parties to be filed 60 days after the hearing transcripts were made available. At the time, this Court cited the

¹ This motion is amended to reflect that the Respondent does not oppose the requested extension of time.

holidays as one reason to allow 60 days. Transcripts were produced on December 11, 2022, making the deadline for briefs February 9, 2023.

The requested eight-day extension of time is necessary for several reasons. First, Petitioner's counsel Timothy Gumkowski, who conducted much of the evidentiary hearing that is the subject of the briefing, has withdrawn from Petitioner's case. New counsel, Amy Fly from the Capital Habeas Unit of the Office of the Federal Public Defender for the Western District of Texas, filed her notice of appearance in this case today. Second, undersigned counsel's ability to work on Petitioner's briefing was impaired by the death of a loved one in early February. Third, Petitioner's counsel Donna Coltharp must prepare for and attend her son's wedding the day the briefing is currently due. The wedding date was not set until after the evidentiary hearing. Fourth, Ms. Coltharp's ability to work on Petitioner's brief has been further impaired by another major filing due today. Fifth, the parties were further impacted by the extended power outages in Central Texas caused by the ice storms in late January and early February further impacted the parties.

As such, Petitioner requests this Court grant a eight-day extension to allow both parties to file their post-hearing briefs on February 17, 2023.

DATED: February 7, 2022

Respectfully submitted,

/s/ Donna F. Coltharp
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Counsel for Petitioner

CERTIFICATE OF CONFERENCE

I hereby certify that counsel for Petitioner contacted Jay Clendenin, counsel for Respondent, regarding the foregoing motion on February 7, 2023. Mr. Clendenin does not oppose an eight-day extension of time.

/s/ Donna F. Coltharp
DONNA F. COLTHARP

CERTIFICATE OF SERVICE

I hereby certify that on February 7, 2022, I electronically filed the foregoing Motion for a 8-day Extension of Time with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

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/s/ Donna F. Coltharp
DONNA F. COLTHARP

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PROPOSED ORDER

On this date, the Court considered Petitioner Scott Louis Panetti’s Amended Motion for 8-Day Extension of Time—Unopposed. Having considered the motion, the Court finds that it is meritorious and should be granted. Accordingly, the motion to extend time is GRANTED, and the post hearing briefs of both parties are due on February 17, 2023.

SIGNED AND ENTERED the _____ day of February, 2023.

Hon. Robert L. Pitman
United States District Judge